

The “Stockbroker Defense” to Fraudulent Transfer Actions

- 11 U.S.C. § 546(e): “the trustee may not avoid a transfer that is a margin payment . . . or settlement payment . . . made by or to (or for the benefit of) a . . . stockbroker, financial institution, financial participant, or securities clearing agency . . . , except under section 548(a)(1)(A).”
- 11 U.S.C. 548(a)(1): “The trustee may avoid any transfer . . . of an interest of the debtor in property . . . that was made or incurred on or within 2 years before the date of the filing of the petition, if the debtor voluntarily or involuntarily – (A) made such transfer or incurred such obligation with actual intent to hinder, delay, or defraud”
- “‘margin payment’ . . . includes any payment by a debtor to pay for the purchase of securities or to reduce a deficiency in a margin account” *In re Stewart Fin. Co.*, 367 B.R. 909, 917 (Bankr. M.D. Ga. 2007)